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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

22 CR 675 (PGG)
Telephone Conference

5 LAWRENCE BILLIMEK, ALAN
6 WILLIAMS,

7 Defendants.

8
9 New York, N.Y.
January 4, 2023
11:00 a.m.

10 Before:

11 HON. PAUL G. GARDEPHE,

12 District Judge

13 APPEARANCES

14 DAMIAN WILLIAMS

15 United States Attorney for the
Southern District of New York

16 DANIEL TRACER

Assistant United States Attorney

17 TELEMACHUS PHILIP KASULIS

18 COURTNEY DANIELLE MORPHET

Attorneys for Defendant Billimek

19
20 DAVID GELFAND

JEFFREY H. LICHTMAN

21 JEFFREY B. EINHORN

Attorneys for Defendant Williams

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1 (The Court and all parties appearing telephonically)

2 (Case called)

3 THE DEPUTY CLERK: Counsel for the government, please
4 state your appearance.

5 MR. TRACER: Good morning. This is Daniel Tracer for
6 the government.

7 THE DEPUTY CLERK: And counsel for Lawrence Billimek,
8 please state your appearances.

9 MR. KASULIS: Good morning, your Honor. Tim Kasulis
10 and Courtney Morphet for Mr. Billimek.

11 THE DEPUTY CLERK: And, Mr. Billimek, you're on the
12 line with us, correct?

13 THE DEFENDANT: Yes.

14 THE DEPUTY CLERK: And counsel for Alan Williams,
15 please state your appearances.

16 MR. KASULIS: This is Jeffrey Lichtman, and I am with
17 David Gelfand and Jeffrey Einhorn, for Alan Williams. Good
18 morning, your Honor.

19 THE COURT: Good morning.

20 THE DEPUTY CLERK: And, Mr. Williams, you're on the
21 line with us, correct?

22 THE WITNESS: Yes, your Honor.

23 THE COURT: This is our initial conference in a
24 securities fraud action.

25 We are proceeding telephonically today because, as I

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1 understand it, Mr. Billimek resides in Texas and Mr. Williams
2 resides in Oregon; hence, we are proceeding telephonically.

3 Mr. Tracer, can you tell me about discovery in this
4 case?

5 MR. TRACER: Yes, your Honor. We discussed getting
6 that out the door shortly to defense counsel. We have proposed
7 a protective order, which we can submit to your Honor to help
8 move things along.

9 In terms of what discovery will look like, what it
10 consists of, the majority are phone records and financial
11 records as well as search warrant returns, as well as the
12 search warrants themselves, and those will consist of emails
13 and phone contents. So, it would be a couple of probably
14 hundreds of thousands of records, and we would ask for
15 approximately 30 days to produce that.

16 THE COURT: All right.

17 Mr. Kasulis and Mr. Lichtman, having heard that
18 description of the discovery materials, when do you suggest we
19 speak again?

20 MR. KASULIS: This is Tim Kasulis for Mr. Billimek.

21 If it's going to take the government 40 days to get us
22 those materials, your Honor, I would suggest another pretrial
23 conference approximately 90 days out.

24 THE COURT: What do you say, Mr. Lichtman?

25 MR. LICHTMAN: That is fine for us as well, Judge.

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1 THE COURT: Mr. Tracer, does that make sense to you?

2 MR. TRACER: Yes, your Honor, that would be fine.

3 THE COURT: All right, Mike, we're looking for a date
4 120 days, approximately, from today for our next conference.

5 THE DEPUTY CLERK: Sure. Give me a moment.

6 (Pause)

7 MR. EINHORN: Your Honor, this is Jeffrey Einhorn.

8 One quick thing: Will that conference be telephonic
9 as well, due to the location of the defendants?

10 THE COURT: Probably, yes. At this point, I can't
11 really anticipate -- you're talking 120 days away. I don't
12 know whether there's going to be anything substantively to
13 discuss 120 days from now, or not. So, the best I can do for
14 you, Mr. Einhorn is to tell you, if we're just talking about
15 scheduling 120 days from now, that conference will proceed
16 telephonically. If we're talking about more substantive
17 matters, then it will likely not proceed telephonically.
18 That's really the best I can do.

19 MR. EINHORN: Thank you, your Honor. We can, of
20 course, file a letter a few weeks beforehand on the issue.

21 THE COURT: Yes. I think what I'll probably do is ask
22 for a status report from the parties, let's say, a week before
23 the next conference, to find out what's been happening. That
24 will shed light on whether the next conference is going to be
25 substantive or not.

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1 In any event, Mike, do you have a date for us?

2 THE DEPUTY CLERK: Yes, your Honor. So, Thursday,
3 May 4, noon is available.

4 THE COURT: So, Mr. Tracer, I know you've sort of
5 described the nature of the discovery materials. Could you
6 give me a better sense of the magnitude of what we're talking
7 about here?

8 MR. TRACER: Yes, sure.

9 So, the thing that are going to drive the volume, your
10 Honor, to be frank, are going to be the search warrant
11 materials, so because, as part of this case, we did seize email
12 accounts and phones, I think there will be probably, I would
13 estimate, hundreds of thousands of records there, because of
14 the emails and the contents of the phones, so that will drive
15 the volume.

16 In terms of the majority of what I would call
17 third-party materials that the government has collected in this
18 case, those consist primarily of phone records and financial
19 records - so, by "financial records," I mean bank records and
20 brokerage records - and those records are probably in the order
21 of, I would say, tens of thousands total records, including
22 sort of the statements, the monthly statements, and things like
23 that.

24 So, that's our general sense of what it looks like.

25 THE COURT: All right.

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1 So, based on what I've heard, it seems likely to me
2 that when we speak again on May 4th, it will be more in the
3 nature of a scheduling conference rather than a substantive
4 conference.

5 So, Mr. Einhorn, you can assume that the May 4th
6 conference will be telephonic.

7 I am going to ask the parties to send me a status
8 report on, why don't we say, April 21st, to tell me what's been
9 happening in the case, where we are in terms of discovery. And
10 when I do speak with you again on May 4th, I will inquire about
11 whether defense counsel has a sense of whether there will be
12 any pretrial motions in the case.

13 MR. KASULIS: This is Tim Kasulis for Mr. Billimek,
14 your Honor.

15 I will be on trial before Judge Liman on that date,
16 but if the conference goes forward on that date, as it sounds
17 it will, and it ends up simply being for scheduling purposes,
18 as your Honor contemplates it may, depending on the scenarios,
19 I'm happy to inform one of my partners, who can appear and will
20 be able to provide dates for the Court's consideration that
21 work from our end. But I wanted to let you know, your Honor,
22 that I may be before Judge Liman in person on that date.

23 THE COURT: Okay.

24 Mike, do we have any problem doing it at 12:30?

25 THE DEPUTY CLERK: No, your Honor, 12:30 is fine as

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1 well.

2 THE COURT: So, why don't we do it at 12:30.

3 Mr. Kasulis, that way, if you are on trial but you
4 feel the need to be there, it will be at the lunch break.

5 MR. KASULIS: I appreciate that, your Honor. Thank
6 you.

7 THE COURT: All right.

8 Someone else, I think, wanted to say something?

9 MR. TRACER: Yes, your Honor. This is Daniel Tracer
10 with the U.S. Attorney's Office.

11 I had one clarification on the discovery. We do
12 intend to get out what I'll call materials that we already have
13 hopefully much sooner than 30 days, maybe this week or next
14 week. There will be a need for probably some rolling
15 production because we are still receiving materials, but as we
16 get those, we will produce those promptly. So, I just want to
17 just be clear about that on the record.

18 THE COURT: Of course. Does the government wish me to
19 exclude time between now and May 4th?

20 MR. TRACER: Yes, your Honor. The exclusion of time
21 would be in the interests of justice, to allow the government
22 to produce discovery, and to allow defense counsel to review
23 the discovery, and to allow the parties to discuss any
24 potential pretrial resolutions.

25 THE COURT: Mr. Kasulis, any objection?

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MR. KASULIS: No objection, your Honor.

THE COURT: Mr. Lichtman, any objection cannot?

MR. LICHTMAN: No objection, your Honor.

THE COURT: I will exclude time between today and May 4, 2023, under the Speedy Trial Act, pursuant to Title 18, United States Code, Section 3161(h)(7)(A), to permit defense counsel to review what I understand to be voluminous discovery materials that the government will be producing, and also for defendants to begin to contemplate whether any pretrial motions will be necessary.

I do find that the ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendants in a speedy trial.

Mr. Tracer, anything else from the government?

MR. TRACER: No, thank you, your Honor.

THE COURT: Mr. Kasulis, anything else on behalf of Mr. Billimek?

MR. KASULIS: No, thank you, your Honor.

THE COURT: And, Mr. Lichtman, anything else on behalf of Mr. Williams?

MR. LICHTMAN: Nothing, your Honor.

THE COURT: All right. Thank you, all, and good day.

COUNSEL: Thank you.

MR. TRACER: Thank you, Judge.

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